

EXHIBIT 8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
ROSENSHINE, : 18-cv-03572 (LDH) (LB)
: :
Plaintiff, : :
: :
- versus - : U.S. Courthouse
: Brooklyn, New York
A. MESHI COSMETIC : :
INDUSTRIES LTD., ET AL., : :
: June 8, 2022
Defendants : 10 a.m.
-----X

TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE
STATUS CONFERENCE
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:
(VIA VIDEO/AUDIO)

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1 THE CLERK: Civil Cause for Telephone Status
2 Conference, docket number 18-cv (inaudible), *Rosenshine*
3 *v. A. Meshi Cosmetics Industries.*

4 Will the parties please state your name for the
5 record?

6 MR. O. Rosenshine: Oren Rosenshine.

7 MR. A. ROSENSHINE: Amir Rosenshine.

8 MS. KHASKELIS: Allison Khaskelis for A. Meshi
9 Cosmetics Industries Limited.

10 THE CLERK: The Honorable Lois Bloom presiding.

11 THE COURT: Good morning, Mr. Rosenshine, Mr.
12 Rosenshine, and Ms. Khaskelis.

13 Ms. Khaskelis, it was a little bit difficult to
14 understand you when you noted your appearance, so if
15 you're using a handset or if you were using a
16 speakerphone, maybe you need to use a handset.

17 This is a telephone conference in plaintiff's
18 trademark action. I last spoke to the parties in this
19 matter on November 9, 2021 at which time I ordered that
20 the parties should complete all discovery by May 10th and
21 write to the Court before May 10th if expert discovery
22 was required.

23 On December 10th, the parties requested that
24 the case be referred to the court annexed mediation
25 program. That was ECF 79. I granted the parties'

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1 request, referred the matter to mediation, ordered the
2 parties to complete the mediation by February 4th, and
3 file a status letter regarding the outcome of the
4 mediation by February 11, 2022.

5 The parties never provided the status letter
6 regarding their mediation. And on May 10, 2022,
7 defendants moved to compel plaintiffs to produce
8 documents and other discovery. That's ECF 82. I ordered
9 plaintiffs to respond by May 27th and I scheduled today's
10 conference. That's at ECF 83.

11 Then the plaintiff moved to compel defendants
12 to produce discovery and for an extension of the
13 discovery deadline. Those documents are at ECF 84 and
14 85. I ordered defendants to respond by May 27th. And I
15 stated that I would address all of this at today's
16 conference. Defendants filed the response on May 26th.
17 That's at ECF 87. And plaintiffs replied on May 25,
18 2022. That's ECF number 88.

19 Let me note that this case has been pending for
20 four years. And although there were motions at the
21 beginning of the case that did slow the case at the
22 beginning, again I believe that these are orders of the
23 Court that have not been abided by by both sides. I
24 looked over the motions to compel. I'll be glad to hear
25 from the parties. But basically, defendants claim that

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1 plaintiff has failed to respond to the request for
2 document production and plaintiffs claim that defendants
3 have not provided requested discovery. Defendants state
4 that they fully responded to plaintiff's request and they
5 have no documents or information. And so that's where we
6 are.

7 Let me just say that in between the initial
8 filing of the case, first it was filed by relatives of
9 Oren and Amir Rosenshine. Then there was a motion to
10 amend for a second time. That was denied by report and
11 recommendation on January 25, 2021. That's at ECF 69.
12 And that report and recommendation was adopted by Judge
13 DeArcy Hall on September 30, 2021.

14 I then set the discovery deadline that the
15 parties are now saying nobody lived up to back in
16 November of 2021 and although the parties, and I think it
17 was plaintiff who requested the mediation, that's at ECF
18 80, on December 10, 2021, that doesn't excuse the parties
19 from conducting discovery.

20 Let me also say that originally the deadline
21 that was set to complete discovery was December 18, 2020.
22 That was set back in July of 2020. That's at ECF 60. So
23 for plaintiffs to say that they've never asked for an
24 extension, that's not true. The original deadline to
25 complete discovery was December of 2020.

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1 Now defendant requested a stay and that
2 deadline was stayed. And then there were the motions to
3 amend which took some time for the Court to work through.
4 But then when that was concluded and the new deadlines
5 were set, it looks like nothing was done. And I again
6 looked over what has been produced.

7 Mr. Rosenshine and Mr. Rosenshine, part of the
8 problem is that when Ms. Khaskelis is writing to you and
9 asking for a firm commitment for the date by which you
10 intend to respond to discovery, I've gotten all the
11 emails back and forth, you're required to work with the
12 other side. This is your case and the Court is not going
13 to give you unlimited chances to do discovery. And it is
14 your burden of proof in this case. So I don't really
15 understand where you think this is going. I'm not going
16 to indefinitely keep changing these deadlines with having
17 no effect on the case. It's a four-year-old case and
18 there is no constitutional rights to conduct discovery.
19 This is an order set by the Court. You live by the
20 Court's rules or else we just go forward and you have
21 what you have. And I don't know that anything that you
22 have will be able to prove your claim.

23 So let me first hear from the Rosenshines.
24 Please state your name before you speak. Thank you.

25 MR. A. ROSENSHINE: Yes, your Honor. This is

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1 Amir Rosenshine.

2 So basically not everything that we produced
3 has been submitted to the Court by the defendants because
4 we did submit additional material on May 27th. And this
5 is like 106 pages worth of material. So whatever they
6 said in their last writing to the Court we haven't
7 produced, so there has been additional materials since
8 this last time they wrote to the Court.

9 THE COURT: Thank you.

10 MR. A. ROSENSHINE: Yes. Other than that, yes.

11 THE COURT: Let me ask Ms. Khaskelis, they say
12 they produced additional materials May 27th.

13 MS. KHASKELIS: Your Honor, that's not entirely
14 correct. It is true that they produced additional
15 materials. It is not true that that happened on the 27th
16 of May. In fact, the email of the 31st of May I received
17 the following. "Allison, it appears the email from 5/27
18 failed to go through --"

19 THE COURT: I'm sorry, Ms. Khaskelis, first of
20 all, you're talking very fast. Please slow down. And
21 second of all, your transmission, your voice is not
22 coming through entirely clearly. And if we needed to get
23 a transcript, I want to make sure that I can understand
24 what you're saying. Okay?

25 So you said that it's not entirely true. Start

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1 again with what else you wanted to tell me.

2 MS. KHASKELIS: Sure. My apologies if I'm not
3 coming through, your Honor. Am I coming through more
4 clearly now? I have changed my headset so I'm hopeful
5 that that alleviates the problem.

6 THE COURT: It's a little bit better.

7 MS. KHASKELIS: (Indiscernible) --

8 THE COURT: It's a little bit better. I just
9 want to make sure that if we needed to transcribe the
10 record that somebody would be able to understand what you
11 are saying. So I can hear you a little bit better now.
12 Thank you.

13 MS. KHASKELIS: Understood. In fact, the
14 discovery that Mr. Rosenshine refers to came through to
15 us on the 31st of May, not the 27th. So this was after
16 all of the motions were fully briefed.

17 THE COURT: Okay. But he said that he gave you
18 what you requested. I don't care all that much whether
19 it was the 27th or the 31st. But again, does that make
20 your motion to compel moot?

21 MS. KHASKELIS: Well, your Honor, I submitted
22 formal discovery requests pursuant to the federal rules.
23 They are numbered and they request what they request. I
24 received an email and 100 pages of documents which are
25 all basically responsive to one of those requests. The

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1 Rosenshines never provided paragraph by paragraph
2 responses to my actual request. So I don't know whether
3 or not this is the entire universe of discovery on that.

4 In any case, I would want the Rosenshines to go
5 through and respond to my formal discovery requests
6 because I need to be able to know whether this is the
7 universe of documents. I don't want -- in fact, in their
8 email they say that should they find something at an
9 additional point, they will provide it.

10 As you have noted, your Honor, this case has
11 been lingering for four years. My client does not want
12 to be in this holding pattern. We don't want to wonder
13 whether Mr. Rosenshine and Mr. Rosenshine will one day
14 find something else or will --

15 THE COURT: I understand what you're saying and
16 I do understand that dealing with two pro se plaintiffs
17 is difficult. That being said, Mr. Oren Rosenshine, I am
18 looking at your declaration and your and your brother's
19 declaration are very similar. They are numbered
20 paragraphs. You do know how to number paragraphs. And
21 you, for instance, are both claiming that your damages
22 and lost profits, because of defendant's actions are
23 8,000,567 -- \$8,567,848. Now that's a very specific
24 amount and I have no idea how you think you're going to
25 prove that. And my guess is that you're coming up with

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1 that number from something. You come up with a chart but
2 you don't give any of the background of how you're going
3 to prove that that's your amount of damages. So those
4 things like responding in numbering paragraphs to the
5 request is required by the federal rules. And Mr.
6 Rosenshine and Mr. Rosenshine, you have brought this case
7 to this Court and you certainly have the ability to
8 number paragraphs and to respond to requests. So if you
9 don't want to hire an attorney, which you have not
10 throughout this case, you must follow the rules.

11 MS. KHASKELIS: Your Honor, if I may?

12 THE COURT: Yes.

13 MS. KHASKELIS: Allison Khaskelis again. As
14 mentioned, the Rosenshines did produce about 100 or so
15 roughly pages of invoices last week. I would like to
16 know that taking those invoices, which span approximately
17 three-year period, the amount of damages even taking
18 everything said in those invoices to be true, which we do
19 not concede, the total amount of damages amounts to
20 \$13,000 as a best case scenario. So --

21 THE COURT: Let me just stop you there
22 because --

23 MS. KHASKELIS: -- it's really --

24 THE COURT: Let me stop you. This conference
25 was scheduled to talk about motions to compel. I have no

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1 idea what happened during the mediation. I do understand
2 that during the mediation somebody, I assume the
3 mediator, told somebody that they should produce
4 something, documents, I'm not exactly sure. I'm not here
5 to inquire into the mediation. That is a separate
6 proceeding and it is entitled to remain confidential.

7 However, Mr. Rosenshine, I cannot allow a case
8 to continue on in discovery like this. It is impossible
9 for me to allow you to have the extension of time you've
10 asked for. And in looking at Ms. Khaskelis's responses
11 to what your requests were, again your requests were not
12 put into formal requests, but I believe she did do her
13 best in responding to those requests. Perhaps not 100
14 percent. For instance, even though the other family
15 members were not allowed to be added to the lawsuit, I
16 don't really know, Ms. Khaskelis, that that means you
17 wouldn't produce the responses to their requests about
18 the A. Meshi corporation and who is part of the
19 corporation or what their chain of command or staffing
20 is. And that was something that I thought, you know,
21 again, even if they didn't ask for it in the most artful
22 terms, they've asked many times for the ownership
23 structure of A. Meshi including shareholders, their
24 stakes in the company, directors, executive managers, the
25 roles of Yermi Mizrahi, Shemtov Mizrahi, Nava Mizrahi in

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1 the company including positions, titles,
2 responsibilities.

3 So again, I think on both sides we should be
4 able to cut through some of this. Ms. Khaskelis, I
5 understand if they just produced documents to you on May
6 31st and those documents were the invoices for the three-
7 year period for the product they believe your client has
8 violated their right, and that only adds up to 13,000,
9 whereas they're giving us a computation of lost profits
10 and damages in the millions, I understand why that is of
11 concern to you. But really what I want to do is get this
12 through depositions and get a summary judgment motion
13 filed.

14 MS. KHASKELIS: Your Honor, that is our wish as
15 well. I want to be clear, my clients, with the exception
16 of the A. Meshi corporate structure which frankly we
17 don't think is relevant to the issue at hand, but setting
18 that aside for the time being, we have produced
19 everything relevant to this matter. My client has
20 nothing else to produce. I understand that no deposition
21 of my client has taken place, but in terms of documents,
22 there is nothing else left.

23 And I think with regards to the corporate
24 structure that is certainly not something that will move
25 this case along in any manner.

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1 THE COURT: Again, you don't get to choose what
2 you answer and what you don't answer. And even if the
3 questions regarding the structure of A. Meshi Cosmetics
4 Limited doesn't in any way resolve their underlying claim
5 that plaintiff's trademark was violated, they are
6 entitled to that information. So they may not be
7 entitled to know what the family members actually do, but
8 I do believe that they are entitled to information about
9 the defendant's corporate structure because this is a
10 lawsuit and if they were to prevail, they would want to
11 have information about the corporate structure.

12 That being said, again, they've asked for all
13 of Meshi's sale invoices for Star Gel products with
14 export documentation and the bills of lading and all of
15 that. So Mr. and Mr. Rosenshine, it's completely beyond
16 me how you are waiting for the Court to order you to do
17 more. The date that I had set was May 10th. You then
18 produce things May 31st which are invoices covering a
19 three-year period. You don't answer the defendant's
20 request which you clearly have the wherewithal to do
21 because I've read what your declarations read like. And
22 you don't get to bring a case in federal court and ignore
23 the Court orders. Mr. Rosenshine, Mr. Rosenshine?

24 MR. A. ROSENSHINE: Yes. This is Amir
25 Rosenshine speaking.

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1 So first of all, we did specify in our response
2 to defendants that we do not have any other documents at
3 this time at all except for what we sent in, these 106
4 pages.

5 THE COURT: So let me ask you then, sir.
6 You're asking for \$8.5 million and yet she's named the
7 three years of invoices total to 13,000 outlets. Don't
8 you see there is an issue there?

9 MR. A. ROSENSHINE: So those three years that
10 we sent the invoices for are meant primarily to
11 demonstrate there was no abandonment because this is one
12 of the defendant's main defenses here. So --

13 THE COURT: How are you going --

14 MR. A. ROSENSHINE: -- (indiscernible) --

15 THE COURT: Sir, how are you going to prove the
16 \$8.5 million in damages?

17 MR. A. ROSENSHINE: So this derives then from
18 our chart that we submitted on --

19 THE COURT: No, no, no, no, no, no. You don't
20 derive numbers from a chart. The chart does not prove
21 anything. You need to have things to back up the numbers
22 you put in the chart. And your chart, which is listed at
23 82-3, it's page 16, this was filed as an exhibit so with
24 82-3, page 16. Your computation chart lists gross
25 profits for each of the years and you list \$138,000 for

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1 2015; 113,000 for 2016; 74,000 for 2017; 64,000 for 2018;
2 and \$498 for 2019, and then nothing for 2020 and beyond.
3 Then you have another line in your chart that says gross
4 profits without counterfeiting and it has a footnote, and
5 it says assuming 20 percent compound annual growth rate,
6 and then you list another list of numbers. This is not
7 proof of anything, Mr. Rosenshine. You can't come up
8 with a chart and think that that is proof. You have to
9 demonstrate how did you come up with a \$138,000 number of
10 gross profit in 2018? How did you come up with the
11 \$113,940 number in 2016? And you're not giving the Court
12 ordered defendants anything when you say assuming 20
13 percent compound annual growth rate. I know you wish
14 that would be true, but you don't get to prove your
15 wishes. And then you're also giving a compounded daily
16 25 percent annual rate for 2020 and beyond. I mean all
17 of this, I don't know where you're coming up with this,
18 Mr. Rosenshine and Mr. Rosenshine, but this is not
19 evidence that proves your trademark violation damages.
20 This is a chart with numbers and you have to show your
21 math. You have to show where you've gotten each of these
22 figures and what documents you have to back that up.

23 MR. A. ROSENSHINE: Yes. So this is Amir
24 speaking. So the gross profit line, this is the actual
25 figures now from the financial statements of the

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1 corporation. So --

2 THE COURT: But the financial statements are
3 prepared by somebody, not you. Is that correct?

4 MR. A. ROSENSHINE: No, actually we prepared
5 them each time ourselves. We did not have an accountant
6 so we do our own.

7 THE COURT: Okay. So you prepared your own
8 financial statements. From what evidence did you take
9 those numbers?

10 MR. A. ROSENSHINE: This is actual reported,
11 you know, corporate for the company.

12 THE COURT: Again, sir, from what information
13 did you derive those numbers?

14 MR. A. ROSENSHINE: Sales and expenses of the
15 company. It's the same as we prepare tax returns. It's
16 the same information.

17 THE COURT: Sir, what I'm saying to you is you
18 produced invoices to Ms. Khaskelis. Do you have invoices
19 showing that you had \$138,000 in gross profit in 2015?

20 MR. A. ROSENSHINE: We did not show from 2015.
21 We showed them from 2013 to 2015 just to start this. But
22 these gross profits represent the entire gross profits of
23 the company not just from the Star Gel because we are
24 claiming that the Star Gel allows our company to sell to
25 these customers additional products. So that's why --

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1 THE COURT: But Mr. Rosenshine, this case is
2 just about Star Gel, correct?

3 MR. A. ROSENSHINE: Yes. The damages that Star
4 Gel counterfeiting caused us. So it includes
5 also complementary --

6 THE COURT: So you're saying that this chart,
7 even though the chart would not prove anything, is not
8 just related to Star Gel?

9 MR. A. ROSENSHINE: It is because what we are
10 claiming is that all the complementary products that we
11 sell to our customers by Star Gel has been also lost to
12 A. Meshi because we couldn't --

13 THE COURT: Again sir, I only deal with the
14 case that was filed in court. I don't deal with other
15 concerns or issues that you have that are not part of
16 this case.

17 MR. A. ROSENSHINE: Yes. So our calculation of
18 damages in the complaint also explains that we are not
19 only claiming damages for losses of Star Gel but also
20 complementary products that --

21 THE COURT: Again, Mr. Rosenshine, your case
22 here is about Star Gel.

23 MR. O. ROSENSHINE: So this is Oren speaking,
24 Oren Rosenshine. So basically yes, this is about Star
25 Gel but the damages -- Star Gel is the product that

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1 allows us to sell more product and we lose those sales
2 because we don't sell them to Star Gel because of the
3 counterfeiting. So we're entitled to those damages as
4 well as far as we understand the loss because --

5 THE COURT: Well I really wish that you
6 would've gone and gotten an attorney because again, I am
7 now in a difficult position. Both of you are smart men.
8 You're preparing your own financial statements for your
9 corporation. And yet you're not responding as required
10 to the discovery requests that were propounded. So when
11 she's asking you discovery requests and they are numbered
12 requests and your producing documents that are responsive
13 to those requests, she's entitled to know that these
14 documents respond to document request number 12 or these
15 documents respond to document request number 8, and you
16 didn't do that. You just turned over pages of invoices.

17 MR. O. ROSENSHINE: Yes, because they asked for
18 the invoices, so we give them the invoices. It's not
19 specifically numbered but the invoices, they ask for
20 invoices, so --

21 THE COURT: But Mr. Rosenshine, Oren and Amir,
22 you both knew how to file a declaration that comes with
23 numbered paragraphs. And so their request to you
24 likewise came with numbered paragraphs, correct?

25 MR. O. ROSENSHINE: Yes.

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1 THE COURT: And you understand that your
2 obligation is to respond to each of those requests. I'm
3 looking at those requests now. They are attached to the
4 motion to compel. It is at 82-1. The definitions go on
5 for ten pages. So you don't have to answer the
6 instructions which go on for ten pages, but they tell you
7 what you're supposed to give them. And then they start
8 asking you the actual questions. And the documents to be
9 produced are 1 through 20. Do you see those requests?

10 MR. O. ROSENSHINE: Yes.

11 THE COURT: Have you produced all of those
12 documents?

13 MR. O. ROSENSHINE: Yes. We went through
14 everything. We didn't skip anything. We read through
15 the entire --

16 THE COURT: So for instance, starting with
17 number one, it says all documents including but not
18 limited to any internal communications, communications
19 with third parties, invoices and receipts that
20 demonstrates all sales of Star Gel by you and/or your
21 predecessors in interest between January 1, 2012 and
22 today's date, and specify the dates, quantities, and
23 amounts of such sales. So you gave them the invoices.
24 Were the invoices for January 2012 through today?

25 MR. O. ROSENSHINE: We gave them from January

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1 '13 through 2015 because after 2015 there is no Star Gel.
2 So you can say from 2013 to today. Before then, we still
3 couldn't find it. But that's why we wanted additional
4 time because it's, you know, it's from before this, and
5 it's two entities ago basically. So this entity that
6 sells in 2012 Star Gel is no longer -- it's over
7 basically. And it's like more than ten years ago. So
8 that's why we requested --

9 THE COURT: Mr. Rosenshine, you've had four
10 years to collect documents. Why would any more time be
11 fruitful here?

12 MR. O. ROSENSHINE: So the request came in just
13 in March. So before then, we've been, you know, dealing
14 with the motions. We still think that if we had
15 additional time, we may be able to provide additional,
16 going back even more. So --

17 THE COURT: I'm not inclined to give you any
18 more time. I'm inclined to give you both time to conduct
19 the depositions that need to be conducted and that's it.
20 And I imagine that's both of you, Amir and Oren
21 Rosenshine, and I imagine that's a 30(b) (6) witness for
22 Meshi. And that's all I'm inclined to do. I'm not
23 inclined to do any more discovery. But you are entitled
24 to take a seven hour question and answer session under
25 oath under Rule 30. That's a deposition. You have to

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1 get a court reporter. The court reporter will swear in
2 the witness. The witness has to, to the best of their
3 ability, answer the questions under oath. And if you
4 answer you don't know, you don't remember, you're still
5 looking, well I don't know how you're going to prove your
6 case that this was trademark infringement.

7 MR. A. ROSENSHINE: So once again Amir
8 speaking. So we had the mediation overlapping with the
9 entire discovery period, just the discovery --

10 THE COURT: Again, sir, I gave you back in --
11 the deadline was set back in July of 2020. It was stayed
12 in December of 2020. So the parties have had multiple
13 periods of time to get discovery done. And whatever has
14 been done, okay. It doesn't look like it's been
15 extremely successful. But I don't think that giving more
16 time is the way to go here. I believe that I should give
17 you one month.

18 Mr. Oren and Mr. Amir Rosenshine, you will have
19 to be deposed. And somebody on behalf of the company, A.
20 Meshi Cosmetics, somebody with knowledge of this matter,
21 will have to be deposed. And that will be that. You'll
22 get the transcripts. And then you'll have to make any
23 request to Judge DeArcy Hall if you believe there is a
24 motion to be made.

25 It can't go on indefinitely. The case has been

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1 pending for four years. I am not going to allow you to
2 continue to kick this down the road. Both sides need to
3 move.

4 So as far as the motions to compel, I don't
5 really know that there is anything to do with these
6 motions to compel because telling them to go back to
7 answer question by question, which is what you're
8 required to do under the federal rules, Mr. Rosenshine
9 and Mr. Rosenshine, but you're saying you've already
10 looked, you can't find anything else, you gave them what
11 you have. I mean again, you're saying that you got \$40
12 for each unit of Star Gel. Where are the documents that
13 demonstrate that?

14 MR. A. ROSENSHINE: So we have it on the
15 screenshots. This is Amir speaking. Screenshots of
16 online leasing, so the counterfeit products. And we're
17 saying that the MSRP is \$40, not necessarily what we
18 received for it. But there are screenshots that we
19 provided --

20 THE COURT: I'm not asking for the screenshots
21 of the counterfeit product. I'm asking what documents do
22 you have that show what you were paid for each unit of
23 Star Gel.

24 MR. A. ROSENSHINE: So what we show is the
25 invoices from 2013 and '14 and '15, those invoices at

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1 that time, it's a long time ago. It's not at today's
2 prices. But back then we did show, it shows in the
3 invoice whatever we got from it. It was \$10 a unit,
4 something like that.

5 THE COURT: \$10 is not \$40.

6 MR. A. ROSENSHINE: \$40 is the MSRP. We did
7 not claim that we received for each unit. On average,
8 \$40 is the MSRP to the customer.

9 MS. KHASKELIS: But (indiscernible) that you
10 used in your calculation (indiscernible) --

11 THE COURT: Ms. Khaskelis, I'm having
12 difficulty hearing you and please state your name before
13 you speak.

14 MS. KHASKELIS: I apologize, your Honor. Are
15 you able to hear me better now? This is Allison
16 Khaskelis.

17 THE COURT: Yes.

18 MS. KHASKELIS: I just wanted to point out for
19 the record that the \$40 MSRP figure is of course what the
20 plaintiffs used in their 8 million in damages
21 calculation. So --

22 MR. A. ROSENSHINE: No, no. This is Amir. No,
23 this is not what is used. What is used is actual profits
24 of the company. This is what the company actually
25 received. It's not \$40 per unit.

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1 THE COURT: Ms. Khaskelis, Mr. Rosenshine, you
2 both understand that I do not want to continue this. I
3 don't want to talk about your theories of the case. I
4 want you to depose each other's witnesses under oath so
5 that there is a transcript of the proceeding. You cannot
6 just say things on the record and think that they are
7 evidence of what you're trying to prove. You're going to
8 have to back up your claims. Do you understand that, Mr.
9 Rosenshine?

10 MR. A. ROSENSHINE: Yes, your Honor. But we
11 still think that, you know, just because this round of
12 mediation did not succeed, we shouldn't be penalized for
13 having now a very short time to finish and not be able
14 to --

15 THE COURT: You are not being penalized. Let
16 me again state for the record you have had four years.
17 This case was filed June 18, 2018. That in July of 2020
18 it is ECF 60, the Court set the deadline of 12/18/20 for
19 you to complete discovery. So you had from July 16, 2020
20 to December of 2020 when there was a request for a stay.
21 So the Court stayed that deadline at that time. And then
22 there was the motion practice on the motion to amend.
23 That was not anybody except your efforts to try to amend
24 the complaint that stalled the case because that second
25 amended complaint was denied in January of 2021 and it

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1 was adopted by Judge DeArcy Hall in September of 2021.
2 And after that was adopted, I set a conference. I had
3 the parties on the phone and I gave you until May of 2022
4 to complete discovery. So you've had two long periods
5 between July 2020 and December 2020 to do discovery.
6 Then you also had between November of 2021 and May of
7 2022. Again, I wish that the case would have resolved
8 through mediation, but it didn't. And again, nobody
9 provided the status of the mediation until there was the
10 motion to compel.

11 I am not continuing on this course. I set the
12 deadlines. You have to live with the deadlines. It is
13 not constitutional to conduct discovery. It's set by the
14 rules. The rules have not been followed by either side
15 in this case quite frankly. And Ms. Khaskelis, I
16 understand your frustration because they are able to
17 number paragraphs when they choose to, but they're not
18 following the rules in responding to your discovery
19 request.

20 Be that as it may, I'm denying both motions to
21 compel and I'm giving the parties one more opportunity to
22 depose the other side. And I want you to understand, Mr.
23 Oren Rosenshine and Mr. Amir Rosenshine, they get to take
24 each of your depositions and it is a seven-hour question
25 and answer session under oath. And they can use that

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1 testimony later in this litigation. And if you give the
2 same sort of answers that you're giving me that you gave
3 them all the documents, that's what you have, you don't
4 have any other bank statements, you don't have any other
5 receipts, you don't have anything else, you've given them
6 everything, then I can tell you predictably that you're
7 not going to be able to convince the Court that you can
8 prove your claim. That's what you have to do. You have
9 to prove your claim.

10 MR. A. ROSENSHINE: So I understand, your
11 Honor. This is Amir speaking. I want to just remind
12 also the Court that we still have the outstanding request
13 that you mentioned that we are entitled to receive from
14 the defendant, the corporate structure, and whatever we
15 requested here, so --

16 THE COURT: Again, sir, just like they're
17 entitled to receive what they didn't get from you, I hear
18 you, but I'm saying I'm done. You're done. Both sides
19 have stonewalled each other. You going to go to
20 depositions and that's going to be that. Because quite
21 frankly, Mr. Rosenshine, you want me to force them to
22 live up to their obligations without you and your brother
23 living up to yours. So I don't do that. Both sides are
24 going to have to live with this record. You haven't
25 lived up to your obligations, Mr. Rosenshine, and now you

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1 want me to enforce on them, even though you didn't make
2 the request in a formal way under any of the federal
3 rules, you just gave them email, you want me to force
4 them to live up to their obligations but you don't want
5 me to force you to live up to your obligations.

6 Did you turn over any --

7 MR. A. ROSENSHINE: So we have to --

8 THE COURT: Mr. Rosenshine, have you turned
9 over any email regarding your interest in Star Gel or in
10 communications between you and your predecessors or any
11 third parties? Have you turned over any email, sir?

12 MR. A. ROSENSHINE: We recited we do not have
13 any. So as we said, we do not have any other documents,
14 whatever they requested.

15 THE COURT: So only the invoices you've turned
16 over? That's your full amount of what you have in this
17 case? You have no communications whether it's by email
18 or any other way with any third party, with any
19 representative of the prior predecessors in interest?
20 You have nothing else?

21 MR. A. ROSENSHINE: Regarding email? No, no
22 communication. There's not even something that we would
23 be able to produce if we have additional time. This is
24 not why we are requesting additional time.
25 This we do not have at all. So we can --

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1 THE COURT: So you have no communications
2 regarding Start Gel between you and your predecessors in
3 interest or A&Z Imports or Eyal Noach, or A. Meshi? No
4 communications?

5 MR. A. ROSENSHINE: Nothing documented.
6 Nothing in email or in writing or nothing documented.

7 THE COURT: So that means how did you
8 communicate?

9 MR. A. ROSENSHINE: So we communicate by
10 talking, you know, over the phone or face to face or --
11 yeah. Nothing -- we don't have anything to show
12 concrete, your Honor. Internal, there is no internal
13 communication in writing or in emails or any other form.

14 THE COURT: I didn't just say internal. I said
15 anything that demonstrates that you had communications
16 regarding your sales.

17 MR. A. ROSENSHINE: No. We have actual
18 invoices, yeah. And the --

19 THE COURT: Well you've given them their
20 invoices. Ms. Khaskelis, I don't think that there's
21 anything else to do except push you to the next -- I mean
22 they've given you two years of invoices that you say
23 amount to \$13,000. Do your deposition and make your
24 motion.

25 MS. KHASKE LIS: Okay. I am very happy with

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1 that record, your Honor. I am perfectly content with
2 that. And for the record, I have no problem producing
3 the corporate structure of A. Meshi to the plaintiffs. I
4 will also --

5 THE COURT: Wonderful. Can you do that by next
6 Friday, please?

7 MS. KHASKELIS: I should be able to. I see no
8 problem being able to do that, your Honor.

9 THE COURT: Okay. Very good. So now --

10 MS. KHASKELIS: But I will advise the plaintiff
11 if I need -- apologies, your Honor. Should I need an
12 additional several days beyond next Friday, I will advise
13 the plaintiffs, but I don't anticipate anything more than
14 ten days to respond.

15 MR. A. ROSENSHINE: Okay. Your Honor --

16 THE COURT: So look, look, they're going to
17 give you the corporate structure. Just so she doesn't
18 need to talk to you again about it, today is the 8th.
19 You're saying you need ten days. That's to the 17th.
20 But if you're saying to me that you need an additional
21 small amount of time, I'll give you until the 21st, Ms.
22 Khaskelis.

23 MS. KHASKELIS: Great, your Honor. Thank you,
24 your Honor. That's much appreciated and
25 (indiscernible) --

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1 THE COURT: Okay. So from June 21st --

2 MS. KHASKELIS: -- (indiscernible) --

3 THE COURT: -- from June 21st, Mr. Rosenshine
4 and Mr. Rosenshine, you're going to need to agree with
5 Ms. Khaskelis, and if you're going to do a deposition of
6 somebody from A. Meshi, again, you need to look at Rule
7 30(b) (6) and give them the topics that you intend to ask
8 about. And it needs to be related to Start Gel. It
9 can't be related to anything in the world. It must be
10 related to your complaint. If you're going to question
11 somebody and you would like the A. Meshi Cosmetics
12 Industries, Ltd to produce somebody with notice of those
13 topics, that's what is called a 30(b) (6) deposition. And
14 so you need to tell Ms. Khaskelis what those topics are.
15 If you don't want to conduct a 30(b) (6) deposition of
16 somebody with knowledge from the A. Meshi Cosmetics
17 Industries, Ltd and instead you know who you want to
18 depose and that person happens to be A. Meshi, I'm just
19 giving you an example, then you have to tell her that's
20 who you intend to depose and you're going to have to hire
21 a court reporter and you're going to conduct a deposition
22 virtually, meaning by Zoom. Mr. Meshi and the
23 corporation is located in Israel? Is that correct, Ms.
24 Khaskelis?

25 MS. KHASKELIS: That's correct, your Honor.

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1 Just to clarify, there is no Mr. Meshi. A. Meshi is the
2 name of the company. It is a family owned company and
3 the relevant members of the family all have the surname
4 of Mizrahi.

5 THE COURT: Okay. So Mr. Rosenshine and Mr.
6 Rosenshine, you get to decide who you want to depose or
7 whether or not you want to do a 30(b)(6) deposition. I
8 imagine, Ms. Khaskelis, that you want to depose both Mr.
9 Oren and Mr. Amir Rosenshine?

10 MS. KHASKELEIS: I would imagine that I would,
11 yes.

12 THE COURT: And do you want them to both be on
13 the same day or two different days?

14 MS. KHASKELEIS: I'll have to think that
15 through, your Honor.

16 THE COURT: Okay.

17 MS. KHASKELEIS: I would want to speak with --

18 THE COURT: What I'm trying to avoid here is
19 another back and forth with letters that you can't work
20 this out between you. I was going to try to get
21 everybody to set aside dates and tell you to go hire
22 court reporters. But you think you could work this out,
23 Mr. Oren Rosenshine, Mr. Amir Rosenshine and Ms.
24 Khaskelis by yourselves?

25 MR. A. ROSENSHINE: Yeah. Amir speaking.

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1 Yeah, I think so because I think the only problem here
2 was that the May 10 deadline was set before the mediation
3 and we assumed then that we're going to have anyway the
4 time to complete, six months basically to complete the
5 discovery aside from the --

6 THE COURT: Well again, I am denying both
7 sides' motions to compel with the exception that Ms.
8 Khaskelis will give you the corporate structure of A.
9 Meshi and she'll provide that by 6/21. You've stated on
10 the record that you've given them everything you have.
11 You have nothing else. Which means that you will not be
12 able to produce something and surprise them. Do you
13 understand that, Mr. Oren Rosenshine?

14 MR. O. ROSENSHINE: Yes. I just want to
15 clarify --

16 THE COURT: Do you understand that, Mr. --
17 excuse me. Do you understand that, Mr. Amir Rosenshine?

18 MR. A. ROSENSHINE: Yes.

19 THE COURT: Okay. So you are tied to what
20 you've produced then. You're not going to be able to
21 come up with new things that you've never given them that
22 should have been provided. Do you understand that, Mr.
23 Oren Rosenshine?

24 MR. O. ROSENSHINE: Yes, your Honor. Just I
25 want to clarify. Until they produce the corporate

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1 structure, if we find something on our end, are we
2 allowed to produce it?

3 THE COURT: What is it that you think you're
4 going to find, Mr. Oren Rosenshine?

5 MR. O. ROSENSHINE: Let's say from 2012
6 invoices or -- yeah, I cannot think. There is no
7 communication anyway, so just invoices or calculations
8 maybe. I don't know if we want to establish those
9 figures, the gross profits, the actual gross profits of
10 the company. If we can just -- as you know, the
11 directors of the company we could just state in a
12 declaration or show --

13 THE COURT: That's not how discovery works.
14 You don't come up with a declaration to prove what your
15 company made. You have to show them what you're deriving
16 that declaration from a declaration will not help here.

17 MR. O. ROSENSHINE: Yes. So financial reports
18 I guess. Yes.

19 THE COURT: You should have produced them
20 already, Mr. Rosenshine. Why didn't you produce them if
21 they help support your claim?

22 MR. O. ROSENSHINE: So yeah, we were under the
23 impression as the executives of the company if we declare
24 that these were our gross profits for those years, so
25 that will be -- if they want us to produce them, prepare

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1 these accounting records, that this would be enough if we
2 do a declaration of these figures. So --

3 THE COURT: Again, I wish you would have hired
4 a lawyer. That would have made your life and everybody's
5 life -- Ms. Khaskelis, do you want to give them until
6 6/21/22 to turn over any reports that they may have?

7 MS. KHASKELIS: Your Honor, again, I struggle
8 with the utility of these reports. They are talking
9 about gross profits of the company. Again, I'm not
10 interested in the gross profits of the company. This is
11 a case limited to Star Gel. I need to have the
12 information relevant to Star Gel. I think it's frankly
13 irrelevant. I understand from the invoices that the
14 plaintiffs were selling all kinds of products. So you
15 know, I don't want to be in a position to have to burden
16 my client with the expenses of wading through financial
17 reports that have nothing to do with Star Gel. And I'm
18 not --

19 THE COURT: I understand your position, so I'm
20 not going to allow them to give you any additional
21 information. You're going to give them the information
22 regarding the corporate structure of A. Meshi by 6/21.
23 Mr. Rosenshine and Mr. Rosenshine, you're done. No more.
24 I'm not going to hear about what you could have or should
25 have found when this case has been pending since June of

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1 2018. You're the one that's coming to the Court asking
2 for your rights to be enforced. And yet you didn't have
3 the time because the Court sent you to annexed mediation
4 when there was five months at the beginning and five
5 months before this conference. So again, Mr. Rosenshine
6 and Mr. Rosenshine, you're done with paper discovery.

7 I'm going to set a deadline for you to do
8 depositions. And if you do the depositions, great. And
9 if you don't do depositions, that's that. I'm not going
10 to extend the discovery any further. This period of time
11 is being given to you to decide whether you want to
12 depose somebody from defendants. And Mr. Rosenshine and
13 Mr. Rosenshine, you must make yourself available for a
14 seven-hour deposition under oath which will be conducted
15 by Zoom. Okay? Do you understand, Mr. Oren Rosenshine?

16 MR. O. ROSENSHINE: Yes.

17 THE COURT: Mr. Amir Rosenshine?

18 MR. A. ROSENSHINE: Yes.

19 THE COURT: And Ms. Khaskelis, you will
20 cooperate with them in setting up the dates?

21 MS. KHASKELIS: Yes, your Honor.

22 THE COURT: Okay. And I've explained to you
23 that you need to look at 30, Rule 30, Mr. Rosenshine and
24 Mr. Rosenshine. And if you're going to ask for somebody
25 who is knowledgeable about topics, that's under 30(b)(6)

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1 and you have to give those topics in advance to Ms.
2 Khaskelis. Ms. Khaskelis, I'm not going to require them
3 to do a formal notice of deposition. I want you to make
4 arrangements to have the deposition on a date certain.
5 And again, I want there to be confirmation emails between
6 the two sides. And if you fail to appear, Mr.
7 Rosenshine, for a confirmed deposition date without
8 notice, that could be a basis for the Court to dismiss
9 the case. This is under Rule 37.

10 So again, Mr. Rosenshine and Mr. Rosenshine,
11 you're going to be required to set a date with Ms.
12 Khaskelis. She's going to take your depositions. You
13 are going to be entitled to take somebody from A. Meshi
14 Cosmetics deposition, and that's it. That's all that I'm
15 giving you time for. Do both sides understand that?

16 MR. A. ROSENSHINE: Yes.

17 MS. KHASKELIS: Yes.

18 MR. O. ROSENSHINE: Yes.

19 MS. KHASKELIS: Yes, your Honor.

20 THE COURT: Okay. So I'm going to give you
21 until the beginning of August. That gives you the whole
22 month of July to conduct these depositions. And so I'm
23 giving you until August 1st to complete the depositions.
24 And there is no other discovery in this period, just the
25 depositions. And you're supposed to give notice under

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1 Rule 30 of the date and time, the method, and if it's a
2 30(b) (6) deposition, I'm repeating myself Mr. Amir and
3 Mr. Oren Rosenshine, you must give notice of the topic.
4 And they will be able to question you for seven hours and
5 you have to answer those questions under oath truthfully
6 to the best of your ability. Do you understand that, Mr.
7 Oren Rosenshine?

8 MR. O. ROSENSHINE: Yes.

9 THE COURT: Mr. Amir Rosenshine?

10 MR. A. ROSENSHINE: Yes.

11 THE COURT: And I'm again warning you that if
12 you fail to cooperate in your deposition that that could
13 be a basis for the case being dismissed. And again, Ms.
14 Khaskelis, I'm counting on you and the Rosenshines to be
15 able to schedule this and it must be completed meaning no
16 further anything. August 1st is the deadline. That
17 doesn't mean that you're scheduling anything on August
18 1st. That means everything's completed by August 1st.
19 And you are required, Mr. Rosenshine and Mr. Rosenshine,
20 to find your own court reporter. That court reporter has
21 to be authorized. So there are certified court
22 reporters. You can look it up in the phone book or
23 online. And those court reporters will swear the
24 witnesses to the truth of their testimony and take down
25 all the questions and answers. And if there are

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1 documents that are going to be referred to during the
2 deposition, they'll have a way to show those on the
3 screen to question the witness.

4 Is there anything else today before we adjourn,
5 Mr. Oren Rosenshine?

6 MR. O. ROSENSHINE: No.

7 THE COURT: Anything further, Mr. Amir
8 Rosenshine?

9 MR. A. ROSENSHINE: No.

10 THE COURT: Anything further, Ms. Khaskelis?

11 MS. KHASKELIS: No. Thank you, your Honor.

12 THE COURT: So again, both sides' motions to
13 compel, which are at 82 and 84 on the docket, are denied.
14 I am not going to extend paper discovery. I did direct
15 defendants to turn over their corporate structure by June
16 21, 2022. And all depositions shall be completed, and
17 any expert discovery shall be completed, by August 1st.
18 With that, we are adjourned. Thank you very much.

19 MS. KHASKELIS: Thank you, your Honor.

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C E R T I F I C A T E

I, MARY GRECO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 11th day of July, 2022.

Mary Greco
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